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France was feared. Moore, on the other hand, referring to the same view, says: "This explanation may be placed in the category of the grotesque" (p. 236).

In Mérou's references to American politics he sometimes falls into more or less serious errors. For instance, the terms of the Missouri Compromise (I. 245), of the Wilmot Proviso, and of the Compromise of 1850 (II. 80) are inaccurately stated.

The author's attitude is sympathetic, and he writes in a spirit of undisguised admiration of "la gran República". Considerable space is devoted to Pan-American diplomacy, but the American reader cannot but wish that the writer had given us a comprehensive discussion from his standpoint of the primacy of the United States in the affairs of the Western Hemisphere. In the introductory pages of the first volume he does, indeed, have something to say of the influence of the United States in Central America and in Mexico. He says that in the Central-American states there exists a clearly defined sentiment favorable to annexation to the United States. In Mexico, while American influence is less felt in the political field, it is even stronger in the field of commerce and finance. The opening of the canal, he thinks, is destined to produce fundamental transformations in the political and economic organization of all these nations (I. 6). As to our relations with the countries farther south he has little to say.

In discussing President Roosevelt's canal policy, the author departs from his usual rule and gives expression to his views. While stating that the recognition of Panama establishes an offensive precedent, he nevertheless justifies the action of the American Executive on the ground of Colombia's inability to maintain order. His argument is largely a restatement of the case as presented in the President's message.

The volumes are equipped with appendixes, containing a short bibliography and documents, occasional foot-notes, and quite full references at the end of some of the chapters. The style is clear and interesting, and while the amount of positive contribution is not great, this work is the most complete narrative of American diplomacy that has yet been written.

JOHN HOLLADAY LATANÉ.

The Constitutional Decisions of John Marshall. Edited, with an introductory essay, by JOSEPH P. COTTON, Jr. (New York and London: G. P. Putnam's Sons. 1905. Two vols., pp. xxxvi, 462; v, 464.)

THE editor of these volumes has performed a useful task in a satisfactory manner. We have here in convenient form the opinions of Marshall, which in themselves constitute so large a part of the constitutional history of the United States. There is a general introduction, and each decision is introduced by an ample note setting forth the historical circumstances in which the case arose, and indicating with precision, without undue technicality of expression, the significance of the principles in the development of American law. Nowhere else is the ser-

vice of Marshall so clearly presented, and nowhere else do we find such a plain and simple tale of the progress of the court and the importance of its decisions in the first thirty-five years of the last century. "Plain" and "simple" may seem strange words to use in connection with a subject like constitutional law; but Marshall's own decisions are so lucid, and the annotations of the editor so clever and sound, that the words are not altogether inappropriate.

It is not impossible to find fault with some of the statements of the editor or with his point of view. One may doubt whether he has sufficiently studied the antecedents of the Convention's work, which resulted in the establishment of the Constitution as the law of the land and in giving to the federal judiciary cognizance of controversies arising under the Constitution. While the case of *Marbury v. Madison* is striking and epochal, it is not difficult, by dwelling on its unexpectedness, to leave the impression that Marshall's decision came from a clear sky and was without historical preparation. It would have been better if the author had shown, if only in outline, the long course of historical development which made the decision natural as well as logically a sound part of American constitutional law. Certainly we should have been given a statement of the principles of *Commonwealth v. Caton*, *Holmes v. Walton*, *Bayard v. Singleton*, *Trevett v. Weeden*, and a fuller and wiser treatment of the extent to which the functions of the courts were considered and appreciated by the men that framed the Constitution. The uninformed reader may easily be misled by the editor's methods in this particular.

One is also startled to find, in the note preceding *Osborn v. Bank of the United States*, the assertion that with *Cohens v. Virginia* and *McCulloch v. Maryland* and the *Osborn* case "Marshall had practically destroyed the immunity from suit which the Eleventh Amendment had granted" (II. 86). Of course the editor does not mean that, even if he does say so; but unfortunately those who use the books may believe what he says. If he is going into that subject, might it not be well to refer to *Hans v. Louisiana*? And might it not be well also to bring out the profound importance of the doctrine that an unconstitutional law cannot protect a state officer or any officer? Assuredly there is no more important doctrine in the whole realm of law than this portion of the old saying that the king can do no wrong—that each person, no matter how august the authority behind him, is responsible for his own torts. If an editor is seeking to trace the development of the really influential principles through these thirty-five years, it appears that this principle should have received attention.

The consideration of the Dartmouth College case is forcible and able, but there is one curious minor error, which at the best leaves an unpleasant impression on the mind of one that knows the facts. The case of *Munn v. Illinois* ought not to be cited (I. 349) as illustration of the doctrine that in spite of charter contract the legislature can control the operation of corporations engaged in public or quasi-public callings.

It is true that the principle of this case is applicable to the control of corporations whose business is "affected with a public interest"; Munn was not however a corporation but a person, and the significance of the decision rests not on the fact that a corporation can be controlled, but that a new set of businesses are subjected to public regulation. The error is possibly trivial, but the statement of the principle is not made with such exactness as to preclude misunderstanding.

Possibly it is not unjust to dissent in some measure to the editor's comment on *Gibbons v. Ogden*, though here again the fault, if there be one, arises from a failure to state with perfect clearness some of the principles involved. Indeed the subject is so difficult that a longer and more explicit statement seems to be imperatively demanded. Nor is it quite certain that Marshall's decision in that case was not absolutely sound, especially those portions referring to the exclusiveness of the power in Congress to regulate interstate commerce. Does the doctrine of concurrent power, the power in the state to legislate on local matters even though the legislation may in some manner affect interstate commerce, really run counter at all to the fundamental propositions of Marshall's decision? Does it anywhere appear that such power of regulation as the states possess does not flow from the undoubted reserved rights of the states—from their power to control local commerce and their police power? The extent to which in the exercise of this reserved power they may be allowed to encroach upon the sphere of interstate commerce is necessarily a matter for particular rather than general determination. The editor's short introductory note appears to declare that the doctrine of concurrent power is in actual if not in nominal opposition to Marshall's opinion.

A. C. McLAUGHLIN.

The Life and Speeches of Thomas Williams, Orator, Statesman and Jurist, 1806-1872, a Founder of the Whig and Republican Parties. By BURTON ALVA KONKLE. (Philadelphia: Champion and Company. 1905. Pp. ix, 393; iii, 395-757.)

THOMAS WILLIAMS was superabundantly endowed with a fatal facility for rhetorical speech—a gift nourished and tended with most assiduous care by relatives, teachers, comrades, and friends, who appeared to regard it as a pearl of great price. He may be said to have lisped in figures of speech. "The Professor of Oratory", so writes the youth to his father, "paid me the highest compliment on my last [oration] which has ever been paid to any student"; subjoining the information that he himself has "the reputation of being the best composer that Dickinson College has produced since its revival" (p. 30). He studies law with (as our author states) "a brilliant and cultured bachelor lawyer . . . strong and oratorical—even ornate" (p. 34). His chum, left behind at college, writes him that his "pieces" are being spoken "in the prayer-hall" (p. 35).

Consequently, when this young Roscius steps upon the stage of active life, he is ready to orate on any and all occasions, and revels in